IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36898 of 2007(P)

PETITIONER:

SASIDHARAN, S/O SUKUMARAN,
PROPRIETOR, ESS ESS AUTO SERVICE,
MEDAYIL VEEDU, ULLOOR VILLAGE, TVM.

(A PERSON OF UNSOUND MIND REP. BY HIS NEXT
FRIEND AND WIFE SUDHA SISIDHARAN DO- -DO-

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT:

RAMACHANDRAN, S/O VELU,
U.P.NO.VII/671/B, ULLOOR VILLAGE, TVM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 36898 OF 2007

Dated this the 13th day of December, 2007

J U D G M E N T

This writ petition is preferred against the order of the District Judge, Thiruvananthapuram, whereby he has dismissed C.M.A 145/04. The said CMA arose out of the orders of the Additional Sub Judge in I.A. 4053/04 and 4054/04 in O.S. 477/93. The wife of the defendant submitted that the husband is of unsound mind and she must be permitted to represent him as a guardian under Order XXXII Rule 15 CPC. The courts below did not find in favour and dismissed the application of wife. So virtually the plan of the wife to file any proceeding has been nullified by the said orders of the court.

2. Therefore, I find that the writ petition also cannot be maintained by a person who is not permitted to sue on behalf of her husband. So far as the case on merits also is concerned, both the courts below have taken into consideration the factual aspects delay etc., and found that there are no sufficient reasons to condone the delay or to set aside the ex-parte decree. They are concurrent

finding of facts as well. The Apex court had always cautioned that even if a different view is possible when two courts have concurrently taken the view, the High Court shall not substitute its views with the concurrent views of the courts below. Referring to the decision in **Gurudev Kaur & Ors. v. Kaki & Ors.** [AIR 2005 (SC) 1975] and in the light of these discussions, I do not find any merits in the writ petition.

The writ petition is accordingly dismissed.

M.N.KRISHNAN, JUDGE

vps